

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIAJS - 6
O**CIVIL MINUTES - GENERAL**

Case No.	ED CV 12-1762-CAS-(Ex)	Date	February 28, 2013
Title	KENRICK OLIVE v. DAVID MARIN GONZALEZ, ET AL.		

Present: The Honorable	CHRISTINA A. SNYDER
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CATHERINE JEANG

N/A

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants

Not present

Not present

Proceedings: (In Chambers:) ORDER DISMISSING CASE FOR LACK OF JURISDICTION

I. INTRODUCTION

The Court finds this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing date of March 4, 2013, is vacated, and the matter is hereby taken under submission.

On October 12, 2012, plaintiff Kenrick Olive filed a quiet title action in this Court against defendants David Marin Gonzalez and Sheryl Baez. Dkt. No. 1. Plaintiff alleges that defendants failed to pay an \$850 debt owed to plaintiff for cleaning defendants' front yard, and therefore plaintiff filed a lis pendens against defendants' property to secure the debt. Plaintiff also asserts an adverse possession claim to the property in question based upon his taking up residence there. Id.

On January 9, 2013, Federal Home Loan Mortgage Corporation ("Freddie Mac") filed a motion to expunge the lis pendens that plaintiff recorded in the official records of San Bernardino County. Dkt. No. 5. On February 5, 2013, the Court issued an order to show cause why this case should not be dismissed for lack of subject matter jurisdiction. Dkt. No. 9. To date, neither plaintiff nor defendants have filed a response to Freddie Mac's motion or the Court's order to show cause.

II. ANALYSIS

In its order, the Court noted that plaintiff fails to state the grounds for this Court's jurisdiction in his complaint, as required by Federal Rule of Civil Procedure 8(a). This

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alone requires dismissal of plaintiff's complaint. In addition, the Court concludes that it lacks subject matter jurisdiction over this action on the basis of a federal question or diversity of citizenship. 28 U.S.C. §§ 1331 and 1332. First, plaintiff's claim does not appear to present a federal question under 28 U.S.C. § 1331, because a claim for quiet title arises solely under state law. Second, neither plaintiff's citizenship nor the amount in controversy are apparent from the face of plaintiff's complaint. Plaintiff's only allegation is that he is owed \$850, which is insufficient to satisfy the amount in controversy requirement. Accordingly, the Court lacks subject matter jurisdiction over the instant case.

Under California law, a court shall order a notice of lis pendens expunged "if it finds either that the pleading on which the notice is based does not contain a real property claim . . . or that the claimant has not established by a preponderance of the evidence the probable validity of the real property claim." Hunting World, Inc. v. Superior Court, 22 Cal. App. 4th 67, 70 (1994) (citing Cal. Civil Code § 405.31 and § 405.32). Here, because the Court is dismissing the underlying action on which the lis pendens is purportedly based, the lis pendens is also expunged. See Cal. Civil Code § 405.32; see also Local Rule 7-12 (the failure to file an opposition may be deemed consent to the granting of the motion).

III. CONCLUSION

For the foregoing reasons, the Court DISMISSES this action for lack of subject matter jurisdiction. Accordingly, the lis pendens is hereby expunged.

IT IS SO ORDERED.

Initials of
Preparer

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